

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

NICOLAS PERALTA CRUZ, et al.,

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 1:24-cv-00263 JLT SAB

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

(Docs. 17, 18)

On February 29, 2024, Nicolas Peralta Cruz and Jennifer Lopez (“Plaintiffs”) filed this action against Defendant Ford Motor Company alleging violations of the Song-Beverly Consumer Warranty Act. (Doc. 1.) On April 9, 2024, Plaintiffs filed an amended complaint which added a claim for violation of the Magnuson-Moss Warranty Act. (Doc. 4.) On May 29, 2024, Defendant filed a motion to dismiss Plaintiffs’ first amended complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and the doctrine of res judicata on the grounds that Plaintiffs are barred from relitigating claims that have been fully and finally adjudicated in the California Superior Court for the County of Merced, case number 21CV-03215. (Doc. 7.) Plaintiffs do not contest the dismissal of their Song-Beverly Act claims without leave to amend. Instead, Plaintiffs request leave to amend to add five different causes of action in conjunction with a revised Magnuson-Moss claim brought under a separate theory. (Doc. 12.)

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On August 7, 2024, the assigned magistrate judge issued Findings and Recommendations recommending that Defendant's motion to dismiss be granted without leave to amend because the claims properly before the Court and contained within the FAC were barred by the doctrine of res judicata. (Doc. 17.) The magistrate judge found that amending the Magnuson-Moss claim to include a new legal theory would be futile because any amended claim would involve the same primary right as the previously dismissed lawsuit and therefore would also be barred by res judicata. (*Id.* at 17.)¹ The Findings and Recommendations were served on the parties and contained notice that any objections thereto were to be filed within 14 days after service. (*Id.*) On August 21, 2024, Plaintiffs filed objections. (Doc. 18.)

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having carefully reviewed the matter, including the objections, the Court concludes the Findings and Recommendations are supported by the record and proper analysis. Notably, the objections fail to directly address the magistrate judge's reasoning regarding the primary rights doctrine.

Thus, the Court **ORDERS**:

1. The Findings and Recommendations issued on August 7, 2024 (Doc. 17) are **ADOPTED**;
2. Defendant's motion to dismiss (Doc. 7) is **GRANTED**;
3. This action is **DISMISSED** without leave to amend; and
4. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: **September 16, 2024**


UNITED STATES DISTRICT JUDGE

¹ The Findings and Recommendations declined to construe Plaintiff's opposition to the motion to dismiss as a motion for leave to amend the complaint to add entirely new allegations and claims. (Doc. 17 at 11–12 (noting that "Plaintiffs acknowledge in their opposition [that] the new claims and factual allegations are not properly before the Court").)